

## TITLE 7 - AGRICULTURE

CHAPTER XVIII - FARMERS HOME ADMINISTRATION, DEPARTMENT  
OF AGRICULTURE

## SUBCHAPTER H - GENERAL

## PART 1901 - PROGRAM-RELATED INSTRUCTIONS

## SUBPART E - CIVIL RIGHTS COMPLIANCE REQUIREMENTS \*C\*

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Authorities: 7 U.S.C. 1989; 42 U.S.C. 1480; 40 U.S.C. 442; 5 U.S.C. 301; 42 U.S.C. 2942; Sec. 10 P.L. 93-357. 88 Stat 392 delegation of authority by the Sec. of Agri., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70; delegations of authority by Dir., OEO, 29 FR 14764, 33 FR 9850.

PART 1901 - PROGRAM RELATED INSTRUCTIONS

Subpart E - Civil Rights Compliance Requirements \*C\*

§1901.201 Purpose.

This subpart contains policies and procedures for implementing the regulations of the Department of Agriculture issued pursuant to Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, Executive Order 11246, and the Equal Credit Opportunity Act of 1974, as they relate to the Farmers Home Administration (FmHA). Nothing herein shall be interpreted to prohibit preference to American Indians on Indian Reservations.

§1901.202 Nondiscrimination in FmHA Programs.

(a) Nondiscrimination by recipients of FmHA assistance.

(1) No recipient of FmHA financial assistance will directly or through contractual or other arrangements subject any person or cause any person to be subjected to discrimination on the ground of race, color, or national origin, with respect to any program or facility. This prohibition applies but is not restricted to unequal treatment in priority, quality, quantity, methods, or charges for service, use, occupancy or benefit, participation in the service or benefit available, or in the use, occupancy or benefit of any structure, facility, or improvement provided with FmHA financial assistance.

(2) Specifically, and without limiting the general applicability of this subpart, such recipient will not on the grounds of race, color, or national origin:

(i) Deny any person the use, occupancy, or enjoyment of the whole or any part of real or personal property or service, financial aid, or other benefit under any program or facility.

(ii) Provide any person with any service, use, occupancy, or other benefit different from that provided others by the program or facility.

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(iii) Subject any person to segregation or separate treatment in any matter related to his or her receipt of any service or other benefit.

(iv) Restrict in any way any person's enjoyment of any right, privilege, or advantage enjoyed by others through the facility or activity.

(v) Treat any person differently from others in determining whether he or she satisfies any requirements or conditions for any admission or membership in the recipient or in any other organization.

(vi) Deny any person an opportunity or restrict opportunity to participate in a program or facility by:

(A) Refusing or failing to provide notice or services provided others for the purpose of encouraging participation in the program or facility; or

(B) Providing any person with such notice or services different from the notice or services provided others.

(vii) Utilize criteria or methods of administration that have the effect of subjecting a person to discrimination with respect to any program or facility or defeating or substantially impairing the achievement of the objectives of a program or facility.

(viii) Select sites or locate facilities with the purpose or effect of:

(A) Excluding individuals from, denying them the benefits of, or subjecting them to discrimination under any programs to which the regulations in this subpart apply; or

(b) Defeating or substantially impairing the achievement of the objectives of the regulations in this subpart.

(ix) Continue any previous or existing discriminatory practices, but will take affirmative action to overcome the effects of such discrimination.

(x) Deny any person the opportunity to participate as a member of a planning or advisory body which is an integral part of the program.

(b) Nondiscrimination by FmHA employees.

(1) No FmHA employee will exclude from participation in, or deny the benefits of, any program or activity administered by FmHA, or subject to discrimination any person in the United States on the ground of race, color, religion, sex, national origin, or marital status.

(2) No FmHA employee will:

(i) Be limited in the discharge of his or her responsibilities to working with applicants solely on the basis of race, color, religion, sex, national origin, or marital status.

(ii) Obstruct equal access to buildings, facilities, structures, or lands under the control of FmHA.

(iii) Deny under any program or activity of FmHA equal opportunity for employment; for participation in meetings demonstrations, training activities or programs; for receiving awards; for receipt of information disseminated by publication, news, radio, and other media; for obtaining contracts, grants, loans or other financial assistance, or for selection to assist in the administration of programs or activities of FmHA.

(3) No FmHA employee will, while conducting official business, participate in or attend any segregated meetings or meetings held in a segregated facility from which persons are excluded because of race, color, religion, sex, national origin, or marital status.

(c) Intimidating or retaliatory acts. No recipient or other person will intimidate, threaten, coerce, or discriminate against any person for the purpose of interfering with any right or privilege under this subpart, or because a person has made a complaint or has testified, assisted, or participated in any manner in an investigation, proceeding, or hearing related to a complaint. The identity of complainants will be kept confidential except to the extent necessary to carry out the purposes of this subpart.

(d) Nondiscrimination Agreement. The County Supervisor will, at the time FmHA assistance is requested, give all applicants for loans and grants listed in §1901.204 (a) a copy of Form RD 400-4, "Nondiscrimination Agreement," and inform the applicant that assistance will be conditioned upon executing this form and complying with the requirements of this subpart.

(e) Covenants. Each instrument of conveyance for loans subject to Title VI of the Civil Rights Act of 1964, as outlined in §1901.204, must contain the following covenant:

"The property described herein was obtained or improved through Federal financial assistance. This property is subject to the provisions of Title VI of the Civil Rights Act of 1964 and the regulations issued pursuant thereto for so long as the property continues to be used for the same or similar purpose for which financial assistance was extended or for so long as the purchaser owns it, whichever is longer."

(f) Posters. The nondiscrimination poster, "And Justice For All," will be displayed at the facilities and/or office of any borrower or grantee if the facilities have been financed by an FmHA loan or grant and are subject to Title VI of the Civil Rights Act of 1964. This poster also will be displayed in all FmHA State and County Offices.

(g) Racial and ethnic data. Recipients should maintain, for review by FmHA and other appropriate agencies, racial and ethnic data showing the extent to which members of minority groups are beneficiaries of FmHA-assisted programs. The data should identify recipients as White, Negro or Black, American Indian, Spanish Surname, Oriental and Other.

(h) Discrimination complaints.

(1) Any person or any specific class of persons, if they believe they have been subject to discrimination prohibited by this subpart, may file a written complaint with any FmHA office, or, if they prefer with the Secretary of Agriculture. Persons who complain of discrimination will be advised of their rights to file complaints. A complaint must be filed not later than 180 days after the date of the alleged discrimination, unless the time for filing is extended by the Secretary of Agriculture.

(2) A complaint filed with the County Supervisor or the State Director will be referred promptly to the Administrator,

Attention: Equal Opportunity Officer. Attached to the complaint should be a statement by the County Supervisor or State Director identifying the recipient and type of assistance provided by FmHA, indicating whether a nondiscrimination agreement has been signed, and giving any other available pertinent information about the complaint.

§1901.203 Title VIII of the Civil Rights Act of 1968.

FmHA employees, FmHA borrowers, contractors, packagers, and others who provide housing for sale or rent, are obligated under the provisions of Title VIII of the Civil Rights Act of 1968 to provide fair housing to all persons regardless of race, color, religion, or national origin.

(a) Coverage. The prohibitions against discrimination in the sale, rental, or financing of housing contained in Title VIII apply to:

(1) All dwellings financed by loans made by the Federal Government and, therefore, to all RH borrowers.

(2) Any person in the business of selling or renting dwellings defined as:

(i) The owner of a dwelling intended for occupancy by five or more families.

(ii) Any person who has participated as principal in the sale or rental of three or more dwellings in the past year.

(iii) Any person who has served as sale or rental agent in two or more transactions in the past year.

(b) Discrimination acts prohibited. Title VIII prohibits FmHA employees, multiple housing borrowers, and those with whom FmHA does business (contractors, real estate brokers, packagers) from:

(1) Refusing to sell or rent a particular dwelling because of a person's race, color, religion, or national origin. The following actions constitute violations of this provision:

(i) Refusing to package an RH loan application.

(ii) Refusing or failing to show a particular dwelling or home in a particular subdivision.

(iii) Directing persons only to areas populated by those of similar race, color, religion, or national origin when housing is available in other areas.

(iv) Representing unsold dwellings or sites as sold to prospective buyers.

(2) Requiring applicants for services to meet different terms or conditions because of their race, color, religion, or national origin; for example, requiring larger rents or downpayments from minority applicants.

(3) Including in any advertising either directly or through visual representation a preference for applicants of a particular race or ethnic origin.

(i) Words indicative of the race or ethnic background of the dwelling or landlord such as "White private home," or "all Black subdivision," may not be used in advertising housing financed or to be financed by FmHA.

(ii) Selection of advertising media and the areas to be covered by any advertising must be made to reach potential applicants of all races or ethnic origins.

(c) FmHA affirmative action.

(1) It is the policy of the Farmers Home Administration to administer its housing program affirmatively so individuals of similar income levels in the housing market area have housing choices available to them regardless of their race, color, religion, sex, or national origin. Each participant in an FmHA housing program shall pursue affirmative fair housing marketing policies in soliciting buyers and tenants, in determining their eligibility, and in concluding sales and rental transactions. (Revised 9-7-77 PN 586.)

(2) The affirmative fair housing marketing requirements shall apply as follows: (Revised 9-7-77 PN 586.)



§1901.203 (c)(2)(Con.)

(i) Participants in FmHA housing programs who request approval for subdivision development involving five or more sites, multiple family projects with five or more units including self-help technical assistance grantees assisting five or more families or five or more conditional commitments for single family dwelling units during a 12-month period must submit an affirmative marketing plan. (Revised 9-7-77 PN 586.)

(ii) An affirmative fair housing marketing plan is required to be prepared and submitted to FmHA by the contractor when:  
(Revised 7-8-85, SPECIAL PN.)

(A) A real estate broker is offering 5 or more single-family dwellings located in the same subdivision for sale under an exclusive listing contract with FmHA. (Added 7-8-85 SPECIAL PN.)

(B) An auctioneer under contract with FmHA is offering 5 or more single-family dwellings located in the same subdivision for sale by public auction. (Added 7-8-85, SPECIAL PN.)

(C) A contractor under a contract with FmHA is managing a multiple-family housing project of 5 or more units of 5 or more single-family dwellings located in the same subdivision.  
(Added 7-8-85, SPECIAL PN.)

(3) Affirmative fair housing marketing plans will be submitted on Form HUD 935.2(3-76) or the participant must be a signatory to a voluntary affirmative marketing agreement approved by the Department of Housing and Urban Development. The plan, if submitted on Form HUD 935.2(3-76), shall describe an affirmative program which will meet the following requirements: (Revised 9-7-77 PN 586.)

(i) Reaching those prospective buyers or tenants, regardless of sex, of majority and minority groups in the marketing area who traditionally would not be expected to apply for such housing without special outreach efforts because of existing racial or socioeconomic patterns. (Added 9-7-77 PN 586.)

(ii) Undertaking and/or maintaining a nondiscriminatory hiring policy in recruiting from both majority and minority groups including both sexes, for staff engaged in the sale or rental of properties. (Added 9-7-77 PN 586.)

(iii) Training and instructing employees engaged in the sale or rental of properties in the policy and application of nondiscrimination and fair housing. (Added 9-7-77 PN 586.)

(iv) Displaying in all sales and rental offices the "Fair Housing" poster. (Added 9-7-77 PN 586.)

(v) Posting in a conspicuous position on each property and FmHA construction site a sign displaying the equal opportunity logo or the following statement: "We are pledged to the letter and spirit of U.S. policy for the achievement of equal housing opportunity throughout the nation. We encourage and support an affirmative advertising and marketing program in which there are no barriers to obtaining housing because of race, color, religion, sex, or national origin." (Added 9-7-77 PN 586.)

(vi) Undertaking efforts to publicize the availability of housing opportunities to minority persons through the type of media customarily used by the applicant or participant, including minority publications and other minority outlets available in the housing market area. As part of these efforts all advertising must include either the equal housing opportunity logo or statement. When illustrations or persons are included they shall depict persons of both sexes and of majority and minority groups. (Added 9-7-77 PN 586.)

(4) The affirmative fair housing marketing plans or evidence that the participant is covered by an approved voluntary affirmative marketing agreement must be submitted as follows: (Revised 9-7-77 PN 586.)

(i) For subdivision, with the preliminary submission of plans and specifications. (Added 9-7-77 PN 586.)

(ii) For multiple-family projects, including rural rental housing, labor housing, cooperative housing, technical assistance grants and site development loans with SF 424.1, "Application for Federal Assistance (For Non-construction)," or SF 424.2, "Application for Federal Assistance (For Construction)," or with the letter of application. Subsequent loans or grants extended to the participant will necessitate a new or updated plan. (Revised 4-11-90, SPECIAL PN)

(iii) For conditional commitments for five or more individual dwelling units in a 12-month period with the application for the fifth conditional commitment. (Added 9-7-77 PN 586.)

(iv) For real estate brokers listing housing properties on an exclusive basis, at any time more than 5 properties are listed for sale by FmHA in the same subdivision. (Revised 8-24-88, SPECIAL PN.)

(5) Affirmative fair housing marketing plans will cover the following the periods: (Added 9-7-77 PN 586.)

(i) For subdivision, from time of application until all lots are sold. (Added 9-7-77 PN 586.)

(ii) For multiple-family projects, from the of application until the loan is paid in full or for so long as the project is being used for the same or similar purpose for which the funds were extended, whichever is later. (Added 9-7-77 PN 586.)

(iii) For conditional commitments involving dwelling units, one year or until all units built through conditional commitments issued within that one year period have been sold. (Added 9-7-77 PN 586.)

(iv) For real estate brokers who list acquired rural housing properties under an exclusive listing contract, one year or until all properties covered under the plan have been sold, whichever is later. (Revised 2-15-89, PN 102)

(6) Affirmative fair housing marketing plans will be reviewed and approved by the official authorized to approve the assistance requested. The County Supervisor will review and submit with comments to the official authorized to approve the assistance requested, those fair housing marketing plans where the assistance requested exceeds his/her approval authority. Any participant covered by this section must have an approved affirmative fair housing marketing plan for any assistance approved 90 or more days after the issuance of these regulations. (Added 9-7-77 PN 586.)

(7) Approved affirmative fair housing marketing plans will be made available by the participant for public inspection at the participant's place of business and at each sales or rental office. Participants who fulfill the requirements of this section by filing a Form HUD 935-2 (3-76) will maintain records to reflect their efforts in fulfilling the affirmative fair housing marketing plan. These records will be made available for review by FmHA personnel. (Added 9-7-77 PN 586.)

(8) Applicants failing to comply with these requirements will be liable to sanctions authorized by regulations, rules, or policies governing the program in which they are participating including but not limited to denial of further participation in FmHA programs and referral to the Department of Justice for suit by the United States for injunctive or other appropriate relief. (Added 9-7-77 PN 586.)

(d) Discrimination Compliance.

(1) Complaints against FmHA employees or borrowers under Title VIII of the Civil Rights Act of 1968 received by the County Office will be sent to the State Director. The State Director will forward the complaints to the Administrator, Attention: Equal Opportunity Officer.

(2) Complaints of discrimination against packagers, contractors or others with whom FmHA deals should be filed with the Department of Housing and Urban Development. However, these complaints may be accepted by FmHA employees and routed through the State Director to the Administrator. Attention: Equal Opportunity Officer.

(e) Relations to other regulations. Nothing in this section in any way interferes with the administration of the nondiscrimination requirements of Title VI of the Civil Rights Act of 1964 or the "Equal Opportunity in Housing Certification," signed by all packagers.

§1901.204 Compliance reviews.

(a) Recipients subject to reviews. Recipients of the following kinds of loans and/or grants who received their loans or advances of funds on or after January 3, 1965, will be reviewed for compliance in accordance with Title VI of the Civil Rights Act of 1964. Guaranteed loans are not covered by Title VI and, therefore, are not subject to compliance reviews.

- (1) Farm Ownership loans to install or improve recreational facilities or other nonfarm enterprises.
- (2) Operating loans to install or improve recreational facilities or other nonfarm enterprises.
- (3) Economic Opportunity loans to individuals for nonagricultural enterprises.
- (4) Individual Recreation loans.
- (5) Loans for Water and Waste Disposal facilities, including Resource Conservation and Development loans for this purpose.
- (6) Community Facility loans.
- (7) Watershed loans and advances.
- (8) Recreation Association loans including those made from Resource Conservation and Development funds.
- (9) Economic Opportunity loans to incorporated cooperative associations (Compliance reviews on unincorporated Economic Opportunity cooperatives subject to Title VI will be conducted only as the need arises or as directed by either the State Director or the Administrator).
- (10) Grazing Association loans, including Resource Conservation and Development loans for this purpose.
- (11) Loans to Timber Development organizations.
- (12) Rural Renewal loans and advances.
- (13) Rural Rental Housing (formerly Senior Citizen rental) and Rural Cooperative Housing loans.

## § 1901.204(a) (Con.)

- (14) Labor Housing loans and/or grants.
  - (15) Rural Housing Site loans.
  - (16) Business and Industrial Insured loans and grants.
  - (17) Technical Assistance grants.
  - (18) Development grants for water and waste disposal.
  - (19) Technical Assistance and Training grants in accordance with Title XIII of P.L. 99-198. (Added 10-28-87, PN 67.)
  - (20) Rural Business Enterprise grants and Television Demonstration grants. (Revised 01-22-93, SPECIAL PN.)
  - (21) Section 601 Energy Impacted Area Development Assistance grants. (Added 10-28-87, PN 67.)
  - (22) Nonprofit National Corporations grants. (Added 02-21-90, PN 128.)
  - (23) System for Delivery of Certain Rural Development Programs panel grants. (Added 05-06-92, SPECIAL PN.)
  - (24) Emergency Community Water Assistance grants. (Added 01-22-93, SPECIAL PN.)
  - (25) Section 306C WWD loans and grants. (Revised 06-19-97, SPECIAL PN.)
  - (26) Housing Application Packaging grants. (Added 12-03-93, SPECIAL PN.)
  - (27) Rural Cooperative Development Grants in subpart F of part 4284 of this title. (Revised 08-07-97, SPECIAL PN.)
  - (28) Community Facilities Grants in subpart B of part 3570 of this title. (Added 04-07-97 SPECIAL PN.)
- (b) Duration of obligation for conducting reviews. Compliance reviews will be conducted on recipients of loans and grants listed in paragraph (a) of this section: (Revised 10-28-87, PN 67.)

- (1) Until the loan is paid in full or otherwise satisfied; or sold through the sale of Agency assets; or (Revised 2-10-88, PN 77.)

(2) Until the last advance of grant funds is made for the grants listed in paragraph (a) of this section. (Revised 2-10-88, PN 77.)

(c) Compliance reviews of loans and grants to individuals.

(1) Compliance Review Officer. The County Supervisor will conduct compliance reviews of loans made to individuals.

(2) Type of review. If the borrower is currently receiving loan supervision, the County Supervisor may complete the compliance review based on his knowledge of the borrower's operations from other visits. Otherwise, the County Supervisor must visit the borrower's facilities. Before completing the compliance review, the County Supervisor should be aware of:

(i) The borrower's operating regulations, for example, the grounds for eviction from a Rural Rental Housing Project.

(ii) The borrower's method of advertising the facility to the public, if there is any advertising, including how will these methods reach the minority community.

(iii) Any records of request for use of the borrower's facility.

(3) Recording results of review. The County Supervisor's determination that the borrower is or is not in compliance with Title VI, together with information such as that outlined in paragraph (c)(2) of this section, will be recorded in the running record. Review of individual Rural Rental Housing borrowers will be recorded on Form RD 400-8, "Compliance Review (Nondiscrimination by Recipients of Financial Assistance Through FmHA)."

(4) Reporting results of review. If the borrower is in compliance, the County Supervisor will report his findings to the State Director. Exhibit A is a sample report. In the case of Rural Rental Housing borrowers, a copy of Form RD 400-8 will be filed in the borrower's County Office loan docket, and the original will be sent to the State Director. If the borrower is not in compliance, the borrower's name, location, type of loan involved, and the reasons for the finding of noncompliance will be sent to the State Director.

§1901.204 (Con.)

(5) Forwarding report of noncompliance. The State Director will see that all compliance review reports are complete. If the recipient was found in noncompliance, the State Director will immediately send a copy of the compliance review report to the Administrator, Attention: Equal Opportunity Officer, with recommended action to take to bring the recipient into compliance.

(d) Reviews of loans or grants to organizations (any borrower or grantee other than an individual).

(1) Designation of Compliance Review Officer. The State Director, except for Technical Assistance and Training grants (P.L. 99-198), and Nonprofit National Corporations grants, will designate the Compliance Review Officer for recipient organization. County Supervisors may be designated only if they have received approved compliance review training. Otherwise, the Compliance Review Officer must be a member of the State staff. For Technical Assistance and Training grants and Nonprofit National Corporations grants, the Assistant Administrator for Community and Business Programs will designate the Compliance Review Officer for recipient organizations. (Revised 02-21-90, PN 128.)

(2) Type of review. Compliance reviews may be completed in connection with regular supervision visits to organizations and must include an inspection of the Agency-financed facility. Before determining that the recipient is or is not complying with the provisions in Form RD 400-4, the Compliance Review Officer will:



(i) Observe the recipient's records, including records on the present membership by race, the handling of applications for use of the facility, the user rates and membership fees or dues, and the facility's operating regulations.

(ii) Determine if the recipient advertises for members or users. If so, observe the effectiveness of the recipient's methods of advertising the availability of the facility to the public, and especially the effectiveness of this advertising in reaching the minority community.

(iii) Interview organization officials, members, and employees. In reviews of recipients of Technical Assistance grants, members of the self-help housing groups should be interviewed to determine the way in which they were recruited.

(iv) Interview informed local community leaders, including minority leaders, if any, to determine if the facility is operating without discrimination because of race, color, or national origin.

(3) Recording results of reviews.

(i) Association, Watershed, Resource Conservation and Development, and Rural Renewal loans involving recreation facilities. Reviews will be recorded on Form RD 400-7, "Compliance Review for Recreational Loans to Associations (FmHA Borrowers)." If the organization is found in compliance with Title VI, the original of the form will be sent to the State Director, and a copy will be filed in the borrower's County Office loan docket. If the organization is found in noncompliance, any additional information which led to the finding will be sent with the form.

(ii) Loans and/or grants for Water and Waste Disposal systems, incorporated Economic Opportunity cooperatives, Grazing associations, Rural Rental Housing, Labor Housing, and Rural Housing Sites. Reviews will be completed on Form RD 400-8. The original of the form will be sent to the State Director and a copy filed in the borrower's County Office loan docket. If the organization is found in noncompliance, any additional information which led to the finding will be sent with the form.

(iii) Timber Development organizations, Rural Cooperative Housing loans, and Technical Assistance grants. The information obtained during the compliance review as well as

the Compliance Review Officer's determination of the borrower's compliance or noncompliance will be recorded in the running record. If the organization is found in compliance, a report (see Exhibit A) will be sent to the State Director. If the organization is not in compliance, the organization's name, location, type of loan received, and all information which led to the finding will be sent to the State Director.

(iv) Technical Assistance and Training grants (P.L. 99-198) and Nonprofit National Corporations grants. The Compliance Review Officer will record in the running record information obtained during the compliance review and the determination of recipient's compliance or noncompliance. A report will be prepared and sent to the Assistant Administrator, Community and Business Programs, for each recipient. (Revised 02-21-90, PN 128)

(4) Mandatory hook-up ordinance. Compliance reviews of public entity borrowers or grantees for water and waste disposal facilities who are operating under the provisions of a mandatory hook-up ordinance is still in effect and is being enforced.

(5) Forwarding noncompliance report. The State Director will see that the reports are complete. If the recipient was found in noncompliance, the State Director will immediately send a copy of the report to the Administrator, Attention: Equal Opportunity Officer, with action proposed to bring the recipient into compliance. For Technical Assistance and Training grants, and Nonprofit National Corporations grants the Assistant Administrator, Community and Business Programs, will send a copy of the report to the Equal Opportunity Officer. (Revised 02-21-90, PN 128)

(e) Timing of reviews.

(1) Reporting year. The State Director will schedule Civil Rights compliance reviews from November 1 to October 31 of each year. For example, compliance reviews scheduled during 1976 should be conducted after November 1, 1975, but before October 31, 1976.

(2) Initial reviews.

(i) Water and Waste Disposal loan and/or grant. The initial compliance review will be conducted before loan or grant closing or before the construction begins, whichever occurs first.

(ii) Technical assistance grant, Technical Assistance and Training grants (P.L. 99-198), and Nonprofit National Corporations grants. The initial compliance review will be conducted before the grant is closed. (Revised 02-21-90, PN 128)

(iii) Rural Housing Site loan. The initial compliance review will be conducted at the beginning of the sale of the sites developed with the FmHA loan.

(iv) Watershed loans for future water supply. The initial compliance review will be made when usage of the stored water begins.

(v) All other loans. The initial compliance review of loans will be conducted within the first reporting year after the loan is closed or after Form RD 400-4 is signed. (Revised 210-88, PN 77.)

(3) Subsequent reviews. The State Director is responsible for requiring subsequent compliance reviews at intervals no less than 90 days, or more than 3 years, after the previous compliance review.

(i) For Water and Waste Disposal organizations with loans that have had at least two compliance reviews after loan closing covering a six-year period, and where no discriminatory practices are indicated, the frequency of subsequent reviews may be reduced to six years. (Revised 2-10-88, PN 77.)

(ii) If Water and Waste Disposal organizations have merged to form a new organization, two reviews will be conducted at three-year intervals after the merger and one every six years thereafter, provided no discriminatory practices are noted.

(f) State Office summary reports. The State Director will keep a list of all compliance reviews conducted during the reporting year so as to schedule each year's reviews. The State Director will submit a copy of this list to the Administrator, Attention: Equal Opportunity Office, no later than July 31 of each year. Recipients found in noncompliance will also be listed on the summary report. Exhibit B is a sample report. For Technical Assistance and Training grants and Nonprofit National Corporations grants, the Assistant Administrator, Community and Business Programs, will submit a summary report, using Exhibit B of this subpart as a guide, to the Equal Opportunity Officer by July 31 of each year. (Revised 02-21-90, PN 128)

§1901.205 Nondiscrimination in construction financed with FmHA loan or grant.

Executive Order 11246 provides for equal employment opportunity without regard to race, color, religion, sex, or national origin and the elimination of all facilities segregated on the basis of race, color, religion, or national origin on construction work financed by FmHA involving a construction contract of more than \$10,000.

(a) Compliance. This section applies to Federal or Federally assisted construction contracts or subcontracts in excess of \$10,000 for on-site construction. It also applies to invitations for bids published for such construction. If construction work of over \$10,000 is partially financed by another Federal Agency, the County Supervisor will try to reach an agreement as to which agency will administer the nondiscrimination requirements. If unable to reach an agreement, the County Supervisor will refer the case to the State Director. (Revised 12-13-78, PN 652)

(b) Requirements of applicants, contractors, or subcontractors and responsible FmHA officials.

(1) Applicant. The applicant will be required to execute Form RD 400-1, "Equal Opportunity Agreement," at the time the loan is closed or before construction is started, whichever occurs first. If the applicant is an incorporated association, a resolution of the governing body will authorize execution of the form. Municipalities or other public bodies will have to incorporate references to this form in the loan resolution before it is adopted. If the applicant wants to publish for bids, the applicant must obtain Form RD 1924-5, "Invitation for Bid (Construction Contract)," which is in compliance with Executive Order 11246, from the local County Supervisor. (Revised 02-21-90, PN 128)

(2) Contractor or subcontractor.

(i) The prospective contractor or subcontractor must submit Form RD 400-6, "Compliance Statement," to the County Supervisor before contract bid negotiations, and comply with the requirements of Executive Order 11246 which are included with Form RD 1924-6, "Construction Contract," during the performance of the contract. The contract will contain the required "Standard Federal Equal Employment Opportunity Construction Contract Specifications" goals and timetables as set forth in Exhibit D. (Revised 5-12-87, SPECIAL PN.)

(ii) The contractor or subcontractor will prepare and submit Form Contract Compliance (CC) 257, "Monthly Employment Utilization Report," to the appropriate regional office of the U.S. Department of Labor (USDL) (See Exhibit E, List of Regional Offices) on a monthly basis through completion of the contract. (Revised 4-25-79, PN 671.)

(3) The County Supervisor or the responsible FmHA official will:  
(Revised 12-13-78, PN 652.)

(i) Deliver to the contractor the following forms, as appropriate: (Revised 12-13-78, PN 652.)

(A) Form RD 400-3, "Notice to Contractors and Applicants," with an attached Equal Employment Opportunity Poster. Poster in Spanish will be provided when appropriate. (Added 12-13-78, PN 652.)

(B) Form RD 400-6, and (Added 12-13-78, PN 652.)

(C) Form CC 257. (Revised 4-25-79, PN 671.)

(ii) Deliver to the applicant Form RD 1924-5 when contractors are to be invited to submit bids, and Form RD 1924-6 to contract for construction. (Revised 5-12-87, SPECIAL PN.)

(iii) Explain to applicant and contractor the requirements of Executive Order 11246, when needed. However, inquiries concerning compliance must be addressed to the appropriate regional offices of the USDL (See Exhibit E). (Revised 4-25-79, PN 671.)

(iv) Submit a report similar in form and content to Exhibit C ("FmHA Financed Contract") of this Instruction to the appropriate regional office of USDL (See Exhibit E) when 10 calendar days of the date a contract or subcontract in excess of \$10,000 is awarded. (Revised 5-12-87, SPECIAL PN.)

(c) Contractor with 100 or more employees and contract over \$10,000. Contractors with 100 more or more employees and contracts over \$10,000 will file the following with the Joint Reporting Committee, 1800 G Street, N.W., Washington, DC 20006. (Revised and renumbered 12-13-78, PN 652.)

(1) SF-100, "Employer Information Report EEO-1," within 30 days of the contract award unless the report has been submitted within the past 12 months, and (Revised 12-13-78, PN 652.)

(2) An annual report by March 31, so long as the contractor holds any FmHA-financed contract in excess of \$10,000. (Revised 12-13-78, PN 652.)

(d) Contractor with at least 50 employees and contract of \$50,000 or more. Each contractor or subcontractor with at least 50 employees and contract of \$50,000 or more, must develop a written affirmative action compliance program for each project. This must be on file in each contractor's or subcontractor's personnel file within 120 days after the beginning of the contract. Form AD-425 provides guidelines for developing compliance programs. (Renumbered 12-13-78, PN 652.)

(e) Compliance during construction. The County Supervisor will: (Renumbered 12-13-78, PN 652.)

(1) Check to see that:

(i) Required posters are displayed.

(ii) There is no evidence of discrimination in employment. (Revised 12-13-78, PN 652.)

(2) Record findings on Form RD 1924-12, "Inspection Report." (Revised 5-12-87, SPECIAL PN.)

(3) If there is any evidence of noncompliance, the County Supervisor will report all the facts to the appropriate regional office of USDL (See Exhibit\_E). (Revised 4-25-79, PN 671.)

(f) Hometown Plans. All construction contracts in excess of \$10,000 financed by FmHA, in areas which have Hometown Plans regarding affirmative action and equal employment, are subject to the conditions set forth in the applicable plan. Each State Director should seek the advice of OGC as to compliance with any such plans in the State Director's jurisdiction. (Revised 12-13-78, PN 652.)

(g) Discrimination complaints. (Renumbered 12-13-78, PN 652.)

(1) Complaints alleging discriminatory acts may be filed directly with the appropriate regional office of the USDL (See Exhibit E) or with the County Supervisor or the State Director for subsequent forwarding to the above address by any employee or applicant for employment with a contractor or subcontractor. (Revised 4-25-79, PN 671.)

(2) Each complaint must be in writing and signed by the complainant (the FmHA official receiving the complaint will assist complainant when necessary). The complaint will include:

- (i) Name, address, and telephone number of complainant.
- (ii) Name and address of the person allegedly discriminating.
- (iii) Date and place of the discrimination.
- (iv) Description of the discrimination.
- (v) Any other information that will assist in investigating and resolving the complaint.

(3) Complaints must be filed not later than 180 days after the alleged act unless the State Director extends the time, for good cause shown by the complainant.

Attachments: Exhibits A, B, C, D and E

SUBJECT: CIVIL RIGHTS COMPLIANCE REVIEWS

TO: State Director, FmHA

Civil Rights compliance reviews have been conducted, and each recipient listed below was found in compliance with Title VI of the Civil Rights Act of 1964. Information which led to this finding and my determination that the recipient is in compliance are in the running record of the recipient's file.

| <u>Recipient</u>           | <u>Case Number</u> | <u>*Type of Assistance</u> | <u>Date of Review</u>    |
|----------------------------|--------------------|----------------------------|--------------------------|
| <u>Sam H. Smith</u>        | <u>99-05-7031</u>  | <u>OL (Rec)</u>            | <u>January 3, 1975</u>   |
| <u>John A. Jones</u>       | <u>99-05-8764</u>  | <u>RL</u>                  | <u>February 17, 1975</u> |
| <u>Medina Hous. Assoc.</u> | <u>99-05-9176</u>  | <u>TA Grant</u>            | <u>March 5, 1975</u>     |

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County Supervisor

\* Indicate only the loans or grants received which are subject to compliance reviews.

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RD Instruction 1901-E  
Exhibit B

SUBJECT: Summary Report of Civil Rights  
Compliance Reviews

TO: Administrator, FmHA

ATTENTION: Director, Equal Opportunity Staff

- I. Civil Rights Compliance Reviews have been conducted, and the following recipients were found in compliance with Title VI of the Civil Rights Act of 1964.

|    | <u>Loan Type</u> | <u>Loan Number</u> | <u>Type of Review</u><br><u>pre-award* post award</u> |
|----|------------------|--------------------|---|
| 1. |                  |                    |   |
| 2. |                  |                    |   |
| 3. |                  |                    |   |

- II. The following recipients were found in non-compliance:

|    | <u>Name of</u><br><u>Borrower</u> | <u>Loan</u><br><u>Type</u> | <u>Loan</u><br><u>Number</u> | <u>Type of Review</u><br><u>pre-award post award</u> | <u>Date Report of</u><br><u>Noncompliance</u><br><u>Sent to Nat.Off.</u> |
|----|-----------------------------------|----------------------------|------------------------------|--|--|
| 1. |                                   |                            |                              |  |  |
| 2. |                                   |                            |                              |  |  |
| 3. |                                   |                            |                              |  |  |

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State Director

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A pre-award review is a compliance review conducted prior to loan or grant approval.

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A post-award review is a compliance review conducted after loan closing.

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Exhibit C

FmHA Financed Contract

TO: Area Director, Office of Federal Contract Compliance Programs U. S.

Department of Labor (DOL)

(Insert address for your DOL area, from Exhibit E, RD Instruction 1901-E

We submit the following information relative to a construction contract in excess of \$10,000:

1. Contractor's Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Telephone Number: \_\_\_\_\_  
Employer's Identification Number: \_\_\_\_\_
  
2. Contract for: \$ \_\_\_\_\_  
Starting Date: \_\_\_\_\_ Completion Date: \_\_\_\_\_  
Contract Number: \_\_\_\_\_ City: \_\_\_\_\_  
DOL Region: \_\_\_\_\_

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RD Instruction 1901-E, Exhibit D not automated see manual

LIST OF REGIONAL OFFICES  
Office of Federal Contract Compliance Programs (OFCCP)  
U.S. Department of Labor (USDOL)

REGION I (ME, NH, VT, MA, RI, CT)

Associate Regional Administrator  
USDOL/OFCCP  
JFK Building - Room 1612-C  
Government Center  
Boston, MA 12203  
(617) 223-4232

REGION II (NY, NJ, PR, VI)

Associate Regional Administrator  
USDOL/OFCCP  
1515 Broadway - Room 3306  
New York, NY 10036  
(212) 662-5563

REGION III (PA, MD, DE, VA, WV, DC)

Associate Regional Administrator  
USDOL/OFCCP  
Gateway Building - Room 15434  
3535 Market Street  
Philadelphia, PA 19104  
(215) 596-1213

REGION IV (NC, SC, KY, TN, MS, AL  
GA, FL)

Associate Regional Administrator  
USDOL/OFCCP  
1371 Peachtree Street, NE  
Room 729  
Atlanta, GA 30309  
(402) 881-4211

REGION VI (LA, AR, OK, TX, NM)

Associate Regional Administrator  
USDOL/OFCCP  
555 Griffin Square Building  
Room 506  
Dallas, TX 75202  
(214) 767-4771

REGION VII (MO, IA, NE, KS)

Associate Regional Administrator  
USDOL/OFCCP Regional Administrator  
Federal Office Building  
Room 2000  
911 Walnut Street  
Kansas City, MO 64106  
(816) 374-5384

REGION VIII (ND, SD, MT, WY, CO, UT)

Associate Regional Administrator  
USDOL/OFCCP  
14431 Federal Office Building  
1961 Stout Street  
Denver, CO 80202  
(303) 837-5011

REGION IX (CA, NV, AZ, HI, GU)

Associate Regional Administrator  
USDOL/OFCCP  
Federal Office Building  
Room 10341  
450 Golden Gate, CA 94102  
San Francisco, CA 94102  
(415) 556-3597

REGION V (OH, IN, MI, IL, WI, MN)

Associate Regional Administrator  
USDL/OFCCP  
New Federal Building, 16th Floor  
234 0 South Dearborn Street  
Chicago, IL 60604  
(312) 353-8887

(4-25-79) PN 671

REGION X (WA, OR, ID)

Associate Regional Administrator  
USDL/OFFCCP  
Federal Office Building  
909 First Avenue  
Room 4095  
Seattle, WA 98174  
(206) 44-4508

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